THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

-

WRIT APPEAL No. 2058 OF 2005

-

-

22-11-2005

-

-

Between:

C.Shashi Kumar.

…….APPELLANT

And

Government of Andhra Pradesh, rep. by its Principal Secretary, Industries and Commerce (M.II) Department & Others.

…….RESPONDENTS

–

–

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

–

WRIT APPEAL No. 2058 OF 2005

–

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

The Government Memo No.7978/M.II(1)/2004-1, dated 20.9.2004, was challenged by the appellant by way of writ petition No.20420 of 2004. The writ

petition has been dismissed. Hence, this appeal.

We have perused the record and heard learned Counsel for the parties.

The facts leading to filing of the writ petition and writ appeal are that one Dr.Aluri Prabhakara Rao applied for grant of mining lease. He was granted prospecting licence over an extent of eight hectors in Survey Nos.910/P, 916 and 917 of Pothakamur village, hamlet of Batlapalem village, Darsi Mandal, Prakasam District, for a period of two years. He was required to execute prospecting licence deed within a period of 90 days as per the provisions of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (hereinafter referred to as 'the Rules'). He approached the Director of Mines and Geology, Government of Andhra Pradesh, Hyderabad for extension of time for execution of prospecting licence deed. The Director of Mines and Geology, on 29.06.2002, granted first extension of time for a period of thirty days for execution of the deed. The deed was not executed within the extended period of time and 4th respondent again requested for extension of time. The Director, Mines and Geology gave another extension, but the 4th respondent again failed to execute the prospecting licence deed within fifteen days. Thereafter, the Director of Mines and Geology, by his order dated 17.09.2003, revoked the lease. This order of the Director of Mines and Geology was challenged by way of a revision before the Government under Rule 35-A of the Rules. The Government entertained the revision and granted two months time to the 4th respondent for execution of the prospecting licence deed and set aside the order of the Director of Mines and Geology. While granting extension, the Government put the condition that request for further extension of time in future would not be entertained under any circumstances and if there was failure to execute the licence deed, the Director of Mines and Geology's order dated 17.09.2003 would automatically revive. In spite of this order, the 4th respondent did not execute the deed and filed a fresh petition before the Government, which is the impugned order in the writ petition. This order refers to the earlier orders and then says—

> *"The matter has been examined by Government and hereby grant one month time as a last chance from the date of receipt of this memo to Dr.Aluri Prabhakar Rao for execution of lease deed in respect of P.L. for Black Granite over an extent of 8.000 hectares in Sy.Nos.910/P, 916 &*

917 of Pothakanur (V), Darsi (M), Prakasam District."

The contention of the writ petitioner was that this was an order, reviving the order passed earlier by the Government. The Government had no power to review its own order. In any case, the order amounted to revision of the order passed by the Government on 10.03.2004, which is not permissible under Rule 35-A of the Rules. This question has already been considered by this Court in a judgment in the case of **V.Murali v. Government of Andhra Pradesh & Others**. Since the Government had passed an order on 10.03.2004, holding that if in the extended period of time the deed was not executed, the order dated 17.09.2003 passed by the Director of Mines and Geology would automatically revive, and as respondent No.4 had failed in executing the deed, the order of the Director of Mines and Geology, dated 17.09.2003 stood revived. Therefore, it was a second revision against the order, dated 17.09.2003.

The matter is fully covered by the judgment cited above and therefore, we allow this writ appeal, set aside the order of the learned Single Judge and also quash the impugned order passed by the Government, dated 20.09.2004. The Government shall be free to call for fresh applications for grant of prospecting licences. We are told that Rules provide preference for persons like respondent No.4. If that is so, the authority concerned shall also consider, for future licences, whether respondent No.4 has any preferential rights. No order as to costs.

_____

(BILAL NAZKI, ACJ)

22nd November 2005

_____

(R.SUBHASH REDDY, J)

ajr